

# Memorandum



**Date:** October 18, 2005

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name.

Agenda Item No. 8(M)(1)(A)

**Subject:** Amendment to Fairchild Tropical Garden Lease Agreement

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## **RECOMMENDATION**

It is recommended that the Board approve the attached resolution authorizing execution of an amendment to the Lease Agreement with Fairchild Tropical Garden, Inc. to change the name in the agreement from Fairchild Tropical Garden, Inc. (Fairchild) to Fairchild Tropical Botanic Garden, Inc.

## **BACKGROUND**

On April 8, 1997, the Board authorized execution of a Lease Agreement with Fairchild (Resolution No. R-349-97). On January 10, 2005, Fairchild officially changed its name registered with the State of Florida to Fairchild Tropical Botanic Garden, Inc.

In order to ensure that insurance coverage with the County's Risk Management Division is accurate and coincide with the Lease Agreement, it is necessary to amend the Lease Agreement to reflect the new official name. The attached amendment to the Lease Agreement accomplishes this by substituting the prior name with the new name.

Attachments

A handwritten signature in black ink, appearing to read "Alex", written over a horizontal line.

Alex Munoz  
Assistant County Manager



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** October 18, 2005

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 8(M)(1)(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(M)(1)(A)  
10-18-05

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING EXECUTION OF AN  
AMENDMENT TO THE FAIRCHILD TROPICAL GARDEN  
LEASE AGREEMENT AND AUTHORIZING THE COUNTY  
MANAGER TO EXECUTE THE AMENDMENT FOR AND ON  
BEHALF OF MIAMI-DADE COUNTY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Amendment to the Fairchild Tropical Garden, Inc, Lease Agreement in substantially the form attached hereto and made a part hereof, and authorizes the County Manager to execute same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman  
Dennis C. Moss, Vice-Chairman

Bruno A. Barreiro  
Jose "Pepe" Diaz  
Sally A. Heyman  
Dorrian D. Rolle  
Katy Sorenson  
Sen. Javier D. Souto

Dr. Barbara Carey-Shuler  
Carlos A. Gimenez  
Barbara J. Jordan  
Natacha Seijas  
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this  
18th day of October, 2005. This Resolution and contract, if not vetoed, shall become  
effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency. DPC

By: \_\_\_\_\_  
Deputy Clerk

Diamela Del Castillo

## FIRST LEASE AMENDMENT

This Lease Amendment ("Amendment"), made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between Miami-Dade County, hereinafter called the "County" or "Landlord" and Fairchild Tropical Garden, Inc., hereinafter called "the Lessee"

WITNESSETH:

WHEREAS, the parties are landlord and tenant under a Lease Agreement dated June 25, 1997, and

WHEREAS, the Lessee has officially registered a new name with the State of Florida, Department of State, documentation of which is attached,

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties agree to amend the Agreement as follows:

The County and Fairchild Tropical Garden, Inc. agree that all references in the Lease Agreement to Fairchild Tropical Garden, Inc. shall be replaced by the name Fairchild Tropical Botanic Garden, Inc. and that such replacement shall be retroactive to January 10, 2005, the date on which the name change was officially registered with the State of Florida.

No terms and conditions of this Lease are hereby amended or modified except as provided herein. The Lease remains in full force and effect as is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the parties hereto have caused their appropriate officials to execute this Amendment as of the date first written above.

ATTEST: Harvey Ruvin  
Clerk of the Board

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
George M. Burgess, County Manager

Witness: FAIRCHILD TROPICAL BOTANIC GARDEN, INC.

By: \_\_\_\_\_  
Joyce Burns  
Corporate Secretary

By: \_\_\_\_\_  
Bruce Greer  
President

Approved as to form and legal sufficiency \_\_\_\_\_

5



**FLORIDA DEPARTMENT OF STATE**

**Glenda E. Hood**

**Secretary of State**

**January 10, 2005**

**Charles P. Sacher, Esquire  
% Sacher, Martini & Sacher  
2655 LeJeune Road, Suite 1101  
Coral Gables, FL 33134**

**Re: Document Number 707398**

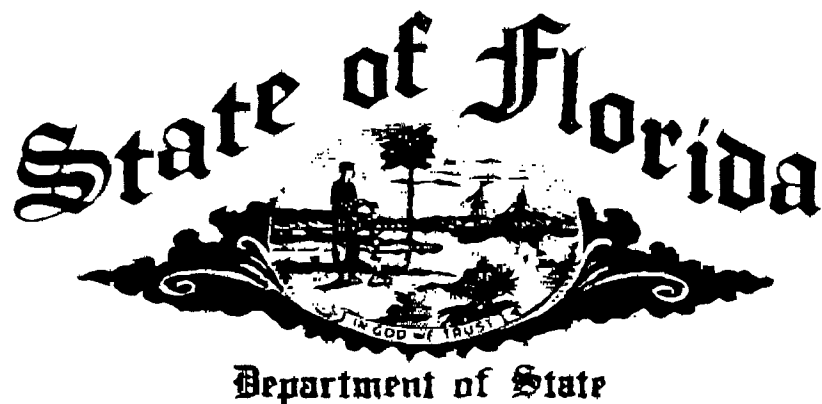
**The Articles of Amendment to the Articles of Incorporation for FAIRCHILD TROPICAL GARDEN which changed its name to FAIRCHILD TROPICAL BOTANIC GARDEN, INC., a Florida corporation, were filed on January 4, 2005.**

**The certification requested is enclosed.**

**Should you have any question regarding this matter, please telephone (850) 245-6050, the Amendment Filing Section.**

**Louise Flemming-Jackson  
Document Specialist Supervisor  
Division of Corporations**

**Letter Number: 005A00001727**



I certify the attached is a true and correct copy of the Articles of Amendment, filed on January 4, 2005, to Articles of Incorporation for FAIRCHILD TROPICAL GARDEN which changed its name to FAIRCHILD TROPICAL BOTANIC GARDEN, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is 707398.

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Tenth day of January, 2005



CR2EO22 (2-03)

*Glenda E. Hood*  
Glenda E. Hood  
Secretary of State

FILED

**ARTICLES OF AMENDMENT**  
to  
**ARTICLES OF INCORPORATION**  
of  
**FAIRCHILD TROPICAL GARDEN**  
Document Number of Corporation - 707398

2005 JAN -4 PM 2:10

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

*Pursuant to the provisions of Section 617.1006, Florida Statutes, the undersigned Florida nonprofit corporation adopts the following Articles of Amendment to its Articles of Incorporation.*

**FIRST:** The following Amendment is hereby adopted:

**ARTICLE I**  
**NAME**

**FAIRCHILD TROPICAL BOTANIC GARDEN, INC.**

**SECOND:** The date of adoption of the Amendment was: December 11, 2004

**THIRD:** Adoption of Amendment (check one)

- ☐ The Amendment(s) was (were) adopted by the members and the number of votes cast for the Amendment was sufficient for approval.
- ☒ There are no members or members entitled to vote on the Amendment. The Amendment was adopted by an affirmative vote of three-fifths (3/5) of the Board of Trustees.

 President Pres.  
Signature of Chairman, Vice Chairman, President or other officer

Bruce W. Greer  
Typed or printed name

President  
Title

12/11/04  
Date



**FLORIDA DEPARTMENT OF STATE****Glenda E. Hood**

Secretary of State

January 19, 2005

**FAIRCHILD TROPICAL BOTANIC GARDEN  
10901 OLD CUTLER ROAD  
MIAMI, FL 33156****Subject: FAIRCHILD TROPICAL BOTANIC GARDEN REGISTRATION  
NUMBER: G05005700032**

This will acknowledge the filing of the above fictitious name registration which was registered on January 05, 2005. This registration gives no rights to ownership of the name.

Each fictitious name registration must be renewed every five years between January 1 and December 31 of the expiration year to maintain registration. Three months prior to the expiration date a statement of renewal will be mailed.

**IT IS THE RESPONSIBILITY OF THE BUSINESS TO NOTIFY THIS  
OFFICE IN WRITING IF THEIR MAILING ADDRESS CHANGES.**

Whenever corresponding please provide assigned Registration Number.


Enclosed is your certificate(s) as requested.

Should you have any questions regarding this matter you may contact our office at 850-245-6058.

Division of Corporations

Division of Corporations - P.O. BOX 1300 - Tallahassee, Florida 32302

# State of Florida



Department of State

I certify that the attached is a true and correct copy of the Application For Registration of Fictitious Name of FAIRCHILD TROPICAL BOTANIC GARDEN, registered with the Department of State on January 05, 2005, as shown by the records of this office.

The Registration Number of this Fictitious Name is G05005700032.



CR2EO22 (2-03)

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Nineteenth day of January, 2005

*Glenda E. Hood*

Glenda E. Hood  
Secretary of State

**APPLICATION FOR REGISTRATION OF FICTITIOUS NAME**

Note: Acknowledgements/certificates will be sent to the address in Section 1 only.

**FILED**  
**Jan 05, 2005 8:00 am**  
**Secretary of State**01-05-2005 90015 045 \*\*\*\*\*80.00  
G05005700032

Section 1

- 1.
- Fairchild Tropical Botanic Garden
- 
- Fictitious Name to be Registered (see instructions if name includes "Corp" or "Inc")

10901 Old Cutler Road  
Mailing Address of Business  
Miami FL 33156  
City State Zip Code

3. Florida County of principal place of business: \_\_\_\_\_

Miami-Dade County

(see instructions if more than one county)

**520266**

This space for office use only

Section 2

**A. Owner(s) of Fictitious Name If Individual(s): (Use an attachment if necessary):**1. \_\_\_\_\_  
Last First MI.  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City State Zip Code2. \_\_\_\_\_  
Last First MI.  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City State Zip Code**B. Owner(s) of Fictitious Name If other than an individual: (Use attachment if necessary):**

- 1.
- Fairchild Tropical Botanic Garden, Inc.
2. \_\_\_\_\_
- 
- Entity Name

10901 Old Cutler Road  
Address  
Miami FL 33156  
City State Zip CodeFlorida Registration Number 707398FEI Number: 590668480☐ Applied for ☐ Not ApplicableEntity Name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City State Zip Code

Florida Registration Number \_\_\_\_\_

FEI Number: \_\_\_\_\_

☐ Applied for ☐ Not Applicable

Section 3

I (we) the undersigned, being the sole (all the) party(ies) owning interest in the above fictitious name, certify that the information indicated on this form is true and accurate. In accordance with Section 885.09, F.S., I (we) understand that the signature(s) below shall have the same legal effect as if made under oath. (At Least One Signature Required)

[Signature] 12/4/04  
Signature of Owner DatePhone Number: 305-667-1651

Phone Number: \_\_\_\_\_

Section 4

**FOR CANCELLATION COMPLETE SECTION 4 ONLY:****FOR FICTITIOUS NAME OR OWNERSHIP CHANGE COMPLETE SECTIONS 1 THROUGH 4:**I (we) the undersigned, hereby cancel the fictitious name \_\_\_\_\_  
\_\_\_\_\_ which was registered on \_\_\_\_\_ and was assigned  
registration number \_\_\_\_\_\_\_\_\_\_  
Signature of Owner Date\_\_\_\_\_  
Signature of Owner DateMark the applicable boxes ☐ Certificate of Status — \$10 ☒ Certified Copy — \$30  
**NON-REFUNDABLE PROCESSING FEE: \$50**

Single CMED01 (1/1/03)

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 6(A)(3)  
4-8-97

RESOLUTION NO. R- 349-97

RESOLUTION AUTHORIZING EXECUTION OF A LEASE  
AGREEMENT WITH FAIRCHILD TROPICAL GARDEN  
PROVIDING FOR LEASE OF 69 ACRES OF  
COUNTY-OWNED LAND, LOCATED AT 10901 OLD  
CUTLER ROAD, FOR CONTINUED UTILIZATION AS A  
BOTANICAL GARDEN

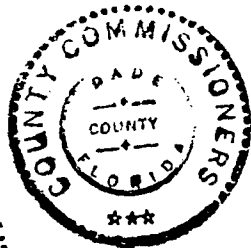
WHEREAS, this Board desires to accomplish the purposes  
outlined in the accompanying memorandum, a copy of which is  
incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY  
COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board finds it  
in the best interest of Dade County to approve an Agreement with  
Fairchild Tropical Garden by which Dade County will lease 69  
acres of County-owned land, located at 10901 Old Cutler Road, for  
continued use as a botanical garden for a term of fifty (50)  
years with option to renew for two additional periods of 25 years  
each, in substantially the forms attached hereto and made a part  
hereof; and authorizes the County Manager to execute same for and  
on behalf of Dade County, and to exercise any and all rights  
conferred therein.

The foregoing resolution was offered by Commissioner  
**Gwen Margolis**, who moved its adoption. The  
motion was seconded by Commissioner **Jimmy L. Morelas**  
and upon being put to a vote, the vote was as follows:

Dr. Miriam Alonso	aye	James Burke	aye
Dr. Barbara M. Carey	aye	Miguel Díaz de la Portilla	aye
Betty T. Ferguson	aye	Bruce C. Kaplan	abent
Gwen Margolis	aye	Natacha Seijas Millán	aye
Jimmy L. Morales	aye	Dennis C. Moss	aye
Pedro Reboredo	aye	Katy Sorenson	aye
Javier D. Souto		aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of April, 1997. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.



DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency.

*TTC*

By: KAY SULLIVAN  
Deputy Clerk

MEMORANDUM

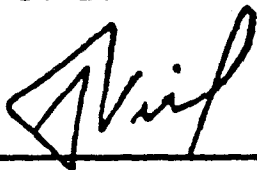
enda Item No. 6(A)(3)

TO: Honorable Chairperson and Members  
Board of County Commissioners

DATE: April 8, 1997

FROM: Armando Vidal, P. E.  
County Manager

SUBJECT: Lease Agreement with  
Fairchild Tropical  
Garden



RECOMMENDATION

The attached lease agreement with Fairchild Tropical Garden has been prepared by the Park and Recreation Department and is recommended for approval.

BACKGROUND

USING AGENCY: Fairchild Tropical Garden

USE: Botanical Garden

PROPERTY: 10901 Old Cutler Road  
Miami, Florida

OWNER: Dade County

JUSTIFICATION: Fairchild Tropical Garden (Garden) donated 69 acres of land in various parcels from 1938 through 1940 to Dade County for use as a botanical garden. Since that time, it has been developed and operated in cooperation with the Metro Dade Park and Recreation Department.

During the next several years, the Garden will undertake major redevelopment. In order to qualify for State of Florida, Division of Cultural Programs funding assistance, a long term lease is required.

LEASE TERMS: Fifty years with option to renew for two additional periods of 25 years each. Such periods shall run consecutively to make this Lease continuous in its operation from the beginning to its termination, a period of one hundred years.

LEASE RATE: None

LEASE CONDITIONS: The Garden shall, subject to the provisions in the agreement, have the exclusive right to use the premises for tropical gardens and programs. The Garden will maintain and operate said facility, gaining any and all federal, state and local permits or licenses as necessary, in a safe aesthetic manner.

The title to all permanent improvements made or constructed upon the premises shall become vested in the County without payment or compensation.

EFFECTIVE DATES: Commencing upon approval by the Board.

CANCELLATION DATE: This Lease is cancelled by virtue of default on the part of the Garden, or upon expiration of the term of the Lease.

COMMENTS: Failure of the County in any one or more instances to insist upon strict performance of any of the covenants of this Lease shall not be construed as a waiver or relinquishment for the future of any covenant, condition, agreement or election but the same shall continue and remain in full force and effect.

This Agreement may be amended only by written document properly executed by both parties. The County acknowledges that the proper authorization for the County will require a Resolution from the Board of County Commissioners.

An earlier version of this Lease Agreement was reviewed and approved by

the Tourism, Recreation and Culture Committee on February 21, 1997. However, upon further review by the County Attorney's Office it was recommended that the language in Article III, Request to Renew and Article XXIV, Relationship of the Garden to the County, be modified.

The recommended agreement will formalize the cooperative relationship between Dade County and Fairchild Tropical Garden and provide the basis for continued facility development.

Attachment



## LEASE AGREEMENT

This LEASE AGREEMENT is entered into this 25 day of June 1997, between DADE COUNTY, FLORIDA a political subdivision of the State of Florida, through its Park and Recreation Department, hereinafter referred to as "COUNTY" and FAIRCHILD TROPICAL GARDEN, a Florida Corporation Not- For-Profit, hereinafter called the "GARDEN."

WITNESSETH:

WHEREAS the Fairchild Tropical Garden has deeded to Metropolitan Dade County approximately 69 acres of property located in Section 6, Township 55 South, Range 41 East, Dade County, Florida, for the purposes of establishing a public tropical botanical garden, and

WHEREAS, for more than 50 years, the Garden has developed, managed and operated a world renowned tropical garden institution, and

WHEREAS the County owns and/or has under its jurisdiction said property, situated adjacent to Matheson Hammock Park, 9610 Old Cutler Road, hereinafter more particularly described in Exhibit A attached hereto and containing approximately 69 acres and which may be utilized for the activities herein contemplated; and

WHEREAS, the Garden's purpose is to "set the highest possible standards in landscape design and exhibition, living collections and horticultural practices, serving as a primary source of information on tropical plants through research and education programs, and inspiring positive attitudes and behavior toward the urban and natural environment," and

WHEREAS the common objective of such activities and facilities may be best achieved in a most economical manner through joint and concerted action of the respective parties and making available for such purposes suitable facilities and/or lands belonging to or under the control of the County, and

WHEREAS, parties will mutually endeavor to maintain the integrity of the natural and historic character of both Matheson Hammock Park and Fairchild Tropical Garden, and

WHEREAS, parties will mutually endeavor to maintain the integrity of the historic master plans for Matheson Hammock Park and Fairchild Tropical Garden, and

WHEREAS, additional activities may include on premises raising of funds, sale of materials, supplies and merchandise related to the Garden's purpose and operation.

NOW THEREFORE, in consideration of covenants of the parties hereinafter set forth and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually agree as follows:

## **ARTICLE I**

### **PURPOSE**

The County hereby grants to the Garden and the Garden hereby accepts from the County a Lease of the land area described in Exhibit A, attached hereto, for the purpose of achieving goals and objectives heretofore mentioned, to the extent of becoming the world's premier exhibit of tropical botany. The Garden shall, subject to the provisions in this agreement, have the exclusive right to use the premises for tropical gardens and programs.

Garden will maintain and operate said facility, gaining any and all federal, state and local permits or licenses as necessary, and will operate the facility in a safe, aesthetic manner in achieving its goals.

## **ARTICLE II**

### **TERM**

The County hereby leases to the Garden for an initial term of fifty (50) years from the date of this Agreement, the premises described in Exhibit A attached hereto for the stated purposes.

## **ARTICLE III**

### **REQUEST TO RENEW**

Provided there has been no default of the lease by the Garden, and subject to the annual Performance Evaluations Program (Exhibit B) and adherence to conditions of this Lease Agreement, Garden may not less than ninety (90) days before the end of each term, request in writing to the County Manager for the County to renew this lease for two (2) additional periods of twenty five (25) years each. Renewal of this Agreement shall be subject to the approval of the County which shall not be unreasonably withheld. If applicable, each renewal period shall run consecutively to make this Lease continuous in its operation from the beginning to its termination, a period of not longer than one hundred (100) years.

## **ARTICLE IV**

### **NEW CONSTRUCTION AND REPAIRS**

The design and construction of all pertinent features to be erected by or for the Garden on said County lands shall be subject to prior written approval by County.

The Garden shall not commence any future construction of any improvement upon any of the County land, until it has on hand sufficient funds or methods of financing to pay the full cost of the improvements. All persons, firms or corporations dealing with the Garden in respect to the furnishing of any labor, services or material for the improvement of said premises are hereby placed on notice that no liens of any nature or character shall be imposed upon or enforced against said lands, but that credit and liability of the Garden only shall be relied upon for payment of the cost of

such improvements. All such improvements must comply with all applicable Federal, State, County or City regulations, including construction, zoning, permits, and other matters of design or maintenance which may arise.

If at any time during the term of this Lease Agreement, or any renewal thereof, the Garden is negligent in conforming to construction/repair requirements of this Agreement, the County shall notify the Garden to make necessary changes within thirty (30) days of date of notice. If Garden has not made necessary changes or reasonable progress within said thirty (30) days, the County shall have the authority to make necessary changes or repair work and bill the Garden for all costs of same. The Garden shall reimburse the County for all costs within thirty (30) days after receipt of billing.

All Such permanent improvements shall become the property of the County upon termination or expiration of this Agreement.

## **ARTICLE V**

### **COUNTY REVIEW OF OPERATIONS**

The Garden shall make reasonable effort to provide to the County in advance a proposed schedule of hours of operation and activities.

The County or any of its duly authorized agents shall have the right to examine Garden's operations during all reasonable hours as may be deemed necessary, and to determine if Garden is in compliance with County rules and regulations and this Agreement. Advance notice will be given when possible. The Garden shall maintain, according to accepted practices, all books of account reports and records customarily used in this type of operation.

The Garden shall not conduct any business or activity unrelated or inappropriate to its purpose, as described within this Agreement.

The Garden shall control the conduct, demeanor and appearance of its officers, members, employees, agents and representatives and make best efforts to control customers and patrons.

## **ARTICLE VI**

### **CONDITION OF PREMISES**

Garden has inspected and hereby accepts the premises in an "as is" condition at the commencement of this Lease Agreement, and agrees to maintain said premises in the same or better condition, order and repair as at the commencement of said term, excepting only reasonable wear and tear arising from the use thereof under this Agreement.

Upon the expiration of this Agreement, or its termination in any manner, Garden shall deliver said premises to the County in the same or better condition than at the commencement of this Agreement, loss by fire or other casualty and ordinary wear excepted.

All equipment and personal property furnished by the Garden shall be of good quality and suitable for its purpose.

## **ARTICLE VII**

### **ANNUAL INSPECTION**

The Garden shall schedule an annual inspection involving both parties and pay to the County the Sum of THREE HUNDRED DOLLARS (\$300.00) per year to reimburse such costs. A report of such inspection will be provided by County.

## **ARTICLE VIII**

### **ASSIGNMENT, SUBLETTING AND SUCCESSORS AND INTERESTS**

The Garden may not assign nor sublet this Agreement. The Garden may sublet Premises or portions thereof and charge nondiscriminatory, reasonable fees as it deems appropriate for classes, lectures, shows, tours, exhibits, community events and other activities which are related to the proper operation of the Garden under reasonable terms and conditions and for reasonable charges as provided in this Agreement. programs or fund raising events. The Garden may sell and serve food and beverages within the confines of the Premises subject only to proper licenses and permits. The Garden may enter into long-term agreements for the operation of its food service operations and its gift shop operations. Terms of such agreement shall be subject to approval of the County which shall not be unreasonably withheld.

## **ARTICLE IX**

### **OFF SITE FACILITIES AND SERVICES PROVIDED BY THE COUNTY**

County will continue to provide, at no cost to County:

- A) Land area for 2 shade houses, as previously described in permit 94-114.  
(See Exhibit C)
- B) An irrigation well and water transport rights from the well's current location west of Old Cutler Road, and proximate to above mentioned shade house(s).
- C) Continued use of small storage building situated adjacent to Old Cutler Road and Garden's north property line.
- D) Continued use of coral stone structure known as the gate house.

## **ARTICLE X**

### **OFF SITE SERVICES PROVIDED BY GARDEN**

Garden will become familiar with various park properties and make diligent effort to suggest projects which could utilize such properties to the mutual benefit of both parties. Utilization by the Garden of various park sites could incorporate local interest groups and result in remote activity centers for the Garden, along with better park land utilization and maintenance, all of which benefits County residents and visitors. Plant sales, demonstrations, training sessions, etc., are possible examples of such activities.

Other and larger mutual projects could also be explored, such as regional or national exhibits at County facilities, etc.

**ARTICLE XI**  
**FACILITIES, EQUIPMENT AND SERVICES**  
**MAINTAINED BY THE GARDEN**

The Garden shall maintain the leased premises and remote activity sites at its own expense (See Article VI) in accordance with all legal requirements, and including:

- A) Janitorial service, grounds maintenance, and repairs to all buildings, exhibits and personal property.
- B) Patron accommodations.

**ARTICLE XII**  
**RIGHT TO CHARGE FEES**

The County supports the Garden's goal to generate sufficient revenue to defray the cost of operations through usage charges, memberships, charitable contributions and other means. The Garden may undertake fund arising activities in the premises such as plant sales, plant shows, festivals, food services, benefits and parties which may require a donation. Such activities may be conducted by Garden staff, volunteers or concessionaires. A schedule of proposed fees, charges and prices, shall annually be provided to the County for approval, which shall not be unreasonably withheld. However, such activities and sales shall be limited to items reasonably associated with the Garden and is not to include unassociated items simply sold for revenue. All charges and prices must be conspicuously posted upon the premises or readily available from the Garden.

The Garden may operate a garden store and restaurant on the premises for the sale of books, gifts, plants, food and other items of the type and character customarily sold in botanical gardens.

**ARTICLE XIII**  
**FINANCIAL STATEMENTS/AUDITS/ANNUAL BUDGET**

The Garden shall submit to the County each year, an annual financial report and audit prepared by a Certified Public Accountant covering their fiscal year, November 1 through October 31. This report shall be submitted on or before March 1st each year. The County shall have the right to audit the books and records of the Garden at all times.

Further, the Garden shall submit to the County its Annual Budget, Goals and Objectives for the coming year, and a report to the Board of County Commissioners of its prior year activities and the status of the prior year goals and objectives.

**ARTICLE XIV**  
**COLLECTIONS AND EXHIBITS**

The Garden shall own and control all documented living collections, including but not limited to the existing botanical specimens collected, planted, maintained and documented by the Garden since the institution was established. As a botanical garden, the Garden shall continue to acquire collections of living plants, in accordance with the institution's Collections Policy, reflecting its mission as well as the professional practices of the American Association of Museums, American Association of Botanical Gardens and Arboreta, Convention on International Trade in Endangered Species and other relevant professional organizations involved in living collections standards and policies. All future accessions of botanical specimens collected, propagated or planted on the Premises will remain under the control and ownership of the Garden. The accession and deaccession system and the records documenting the Garden's collections will meet prescribed standards required for accreditation by the American Association of Museums. Upon termination of this lease and the vacating of the property by the Garden, any plants or structures not removed from the property by the Garden shall become the property of Dade County.

**ARTICLE XV**  
**ACCESS AND PARKING**

Parties will mutually assist with access and parking by public visitors. County personnel and their contractors shall have right of access to leased premises. Said access shall be coordinated with the Garden staff prior to need except in emergency situations wherein the facility or life safety is threatened.

**ARTICLE XVI**  
**COORDINATION OF MASTER PLANS**

The Garden has adopted a master site plan that relies on the shared use of Matheson Hammock Park. The parties recognize that this master plan will function as intended if Matheson Hammock Park is altered to accommodate public parking, overflow parking, vehicular circulation, pedestrian circulation, maintenance facilities, plant propagation facilities, and field nursery for Fairchild Tropical Garden. The County recognizes these needs and will endeavor to produce an updated Matheson Hammock Park Master Site Plan as funds are available. It is further recognized that such a plan is subject to biological and historical surveys, public hearings and other administrative and legal obligatory procedures in adopting such plans. The County hereby declares its interest to integrate master plans to the greatest extent possible while maintaining their historic integrity, subject to procedures and adoptions.

**ARTICLE XVII**  
**SIGNAGE AND ADVERTISING**

Garden may advertise on the leased or remote premises by such quality signs or forms of advertising which shall be consistent with industry standards.

Further, it is recognized that County and Garden will be publishing many related brochures, newsletters, flyers, media articles and producing live broadcasts. Each party should make diligent effort to include the other in all such publications and broadcasts involving mutual events. Fixed signage, such as at Garden entry gates, will reflect cooperation of parties through display of County logos or actual wording. The Garden shall acknowledge financial support of the Board of County Commissioners in all appropriate publications, events, programs and exhibitions.

**ARTICLE XVIII**  
**DAMAGES**

Garden shall repair all damage to buildings, exhibits, utilities, personal property and other improvements caused by the Garden, its agents, patrons, invitees, employees, volunteers, suppliers and contractors or the elements.

**ARTICLE XIX**  
**UTILITIES WITHIN LEASED PREMISES**

The Garden shall maintain and pay cost of all utilities within the leased premises including any drains, sewer pipes, air-conditioning, plumbing, electrical lines, services outlets, and where required, sub-meters to monitor utility usage; all subject to appropriate permits.

**ARTICLE XX**  
**QUIET ENJOYMENT OF LEASED PREMISES**

The County covenants and agrees that so long as no default exists in the performance of Garden's covenants and agreements contained herein, the Garden shall peaceably and quietly hold and enjoy the leased premises and all parts thereof free from eviction or disturbance by the County, or any person claiming under, by, or through the County.

**ARTICLE XXI**  
**INDEMNIFICATION**

The Garden does hereby agree to indemnify and save the County harmless from any and all claims, liability, losses and causes of action which may arise out of this Lease Agreement or the Garden's activities in the demised premises. The Garden shall pay all claims and losses of any nature whatsoever in connection therewith and shall defend all suits at the County's request in the name of the County when applicable and

pay all costs and judgments which issue thereon, and the County shall not be liable for any damage or injury which may be sustained by any party or persons on the leased premises other than a damage or injury solely caused by the County itself.

## **ARTICLE XXII** **INSURANCE**

The Garden shall maintain during the term of this Agreement, the insurance specified below, and a Certificate of Insurance shall be filed with the General Services Administration Risk Management Division, 111 N.W. 1 Street, Suite 2340, Miami, Florida 33128 and the Park and Recreation Department, 50 S.W. 32nd Road, Miami, Florida 33129, prior to the commencement of this agreement:

A. Public Liability Insurance on a Comprehensive basis in an amount not less than \$300,000 combined single limit for bodily injury and property damage. Policy shall be endorsed to include Metropolitan Dade County as an additional insured. Policy will be endorsed to include Products Liability coverage when applicable.

B. Automobile Liability Insurance covering all vehicles owned, nonowned and hired by Garden and used in connection with activities in an amount not less than \$300,000 combined single limit for bodily injury and property damage.

C. Hazard Insurance to include at least fire, extended coverage, and vandalism and malicious mischief for the full insurable value of any structure located upon the premises, naming the County as an additional payee. Policy shall be endorsed to include Broad Form Property Damage. Dade County must be shown as an additional insured with respect to this coverage.

D. Builder's Risk Insurance for any construction during the term of this Agreement.

E. No modification, change or cancellation of insurance shall be made without thirty (30) days written advance notice to Metropolitan Dade County, c/o Risk Management Division, General Services Administration.

The Insurance coverage required shall include those classifications as listed in Standard Liability Insurance Manuals which are applicable to the operations of the Garden in the performance of this Agreement. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida. The Company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best's Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division or companies holding a valid Florida certificate of authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida," issued by the State of Florida



Department of Insurance and are members of the Florida Guaranty Fund. Certificates will indicate no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Compliance with the foregoing requirements shall not relieve the Garden of its liability and obligations under this section or under the indemnification article or any other portion of this Agreement.

**ARTICLE XXIII**  
**INFORMATION EXCHANGE AND**  
**UTILIZATION OF EACH OTHER'S FACILITIES**

Mutual and mutually beneficial events shall be planned to familiarize each party, and their staff, with each other and each other's facilities. This may be accomplished through specific events, invitation to regular events, mailing lists, meetings, socials or reciprocal offerings.

**ARTICLE XXIV**  
**RELATIONSHIP OF THE GARDEN TO THE COUNTY**

The Executive Director shall be the chief operating officer of the Garden. This individual shall be employed by the Garden and shall be responsible to the Board of Trustees of the Garden as an entity, and shall be in charge of day-to-day operations and shall provide information or reports about the Garden to the County upon request. The Executive Director, on behalf of the Garden, shall be the liaison with the County through its County Manager or his designee. This will remain as the official and primary means of communication between the respective parties to this agreement.

The County Manager may designate an individual to serve as an ex-officio non-voting member of the Board of Trustees of the Garden or its committees or volunteer groups.

The County and the Garden have a relationship of Lessor and Lessee, and each is independent of the other. The employees, representatives and agents of either the County or the Garden may not be deemed employees, representatives or agents of the other. Nothing in this Lease or its addenda shall be construed as inconsistent with the foregoing lessor/lessee relationship, or as creating or implying any partnership, joint venture, trust or other relationship between the County and the Garden.

**ARTICLE XXV**  
**CONFORMANCE WITH COUNTY POLICY**

The Garden shall comply with all federal, state and local statutes, laws, regulations, ordinances, as well as with the Board of County Commissioners' established policies applicable to an operating agreement of this nature, including but

not limited to, discrimination in employment, Garden membership, its Board composition, or in the use of Garden facilities by the public.

## **ARTICLE XXVI**

### **DEFAULT AND CANCELLATION**

The occurrence of any of the following events shall constitute a default by the Garden and this Lease shall terminate upon written notice from County:

- 1) Abandonment of the premises or discontinuation of the operation for a period of ninety (90) days without giving notice of such cancellation or termination.
- 2) Making of general assignment for the benefit of creditors.
- 3) Failure to comply with the terms and conditions of this Lease.
- 4) Any final judicial determination that litigation instituted by Lessee against the County was groundless.
- 5) Failure to maintain nonprofit status under provisions of Chapter 617, Florida Statutes.
- 6) Failure to obtain or maintain all federal, state, and local permits or licenses required for said operation.
- 7) If the Lessee fails or refuses to reimburse County for any repair costs within the specific time periods, or the annual inspection fee, it shall be construed as a default and this Agreement may be canceled by written notice from County in accordance with the terms contained herein.

In the event this Lease is canceled by virtue of default on the part of the Garden, or upon expiration of the term of this Lease, the title to all permanent improvements made or constructed upon the premises shall become vested in the County without payment or compensation.

## **ARTICLE XXVII**

### **DISCRIMINATION**

The Board of County Commissioners declared and established as a matter of policy that there shall be no discrimination based on disability, sex, age, religion, race, color, creed, or national origin in connection with any County property or facilities operated or maintained under lease, license or other agreement from Dade County or its agencies. The Garden agrees to conform to this policy in its use of the premises.

**ARTICLE XXVIII**  
**NOTICES**

Any notice required to be given by either party under provisions of this Lease shall be sufficient for all purposes when sent in writing by United States registered or Certified Mail, postage thereon prepaid addressed to the other party at the place of business designated as follows:

To the County:

County Manager  
Stephen P. Clark Center  
29th Floor  
111 N.W. 1st Street  
Miami, Florida 33128

To the Park and Recreation Department

Director  
Dade County Park and Recreation Department  
50 S.W. 32nd Road  
Miami, Florida 33129

To the Lessee:

Executive Director  
FAIRCHILD TROPICAL GARDEN  
10901 Old Cutler Road  
Coral Gables, Florida 33156

**ARTICLE XXIX**  
**LICENSES AND PERMITS**

Garden shall procure at its cost all permits and licenses required for this operation and performance under this Agreement and shall pay all taxes and assessments that shall be imposed or assessed by any governmental authority in connection with the business or operations conducted by this Agreement. The Garden shall observe, obey and comply with all applicable County, State and Federal laws, rules and regulations. This shall apply to both Exhibit A area and other off-site amenities described herein.

**ARTICLE XXX**  
**PERFORMANCE**

The failure of the County in any one or more instances to insist upon strict performance of any of the covenants of this Lease shall not be construed as a waiver or relinquishment for the future of any covenant, condition, agreement or election but the same shall continue and remain in full force and effect.

**ARTICLE XXXI**  
**ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties hereto and supersedes all such prior agreements between the parties. This Agreement may be amended only by written document properly executed by both parties. County acknowledges that the proper authorization for the County will require a Resolution from the County Commission.

**ARTICLE XXXII**  
**COUNTY ASSISTANCE**

The County, through its Park and Recreation Department, will assist the Garden to a reasonable extent without charge as staffing and equipment might be available. Nothing herein shall preclude the Garden from seeking funding or support from other County sources.

The County will endeavor to assist the Garden to further its programs to the greatest extent possible within the County's funding limitations.

**ARTICLE XXXIII**  
**DISCLOSURE**

The disclosure Ordinance, Section 2-8.1 of the Code of Metropolitan Dade County, Florida, requiring a corporation transacting business with Dade County to disclose certain information, shall be applicable to the Board and Officers of the Garden, and a current disclosure form shall be filed with County upon change of any applicable persons or situations.

**ARTICLE XXXIV**  
**ART IN PUBLIC PLACES**

It is understood that unless waived by the County, 1.5% of the cost of new building improvements, including future construction by Garden, must be devoted to art as approved through the Arts in Public Places Program.

**ARTICLE XXXV**  
**APPEAL**

Either party may appeal any ruling, opinion or provision rendered pursuant to this Agreement by written request to the County Manager. That subsequent decision shall prevail and be binding upon both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the 25 day  
of JUNE  
1997

ATTEST:

FAIRCHILD TROPICAL GARDEN

By: Constanza M. Riddler  
Secretary

By: BW Greer  
President

(SEAL)

ATTEST:

HARVEY RUVIN, CLERK

DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

By: Clifford Alvar  
Deputy Clerk

By: [Signature]  
County Manager



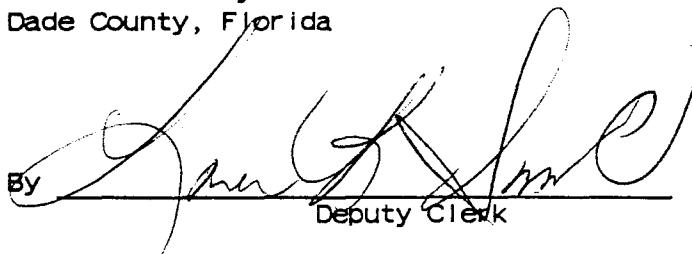
STATE OF FLORIDA     )  
                              )   SS:  
COUNTY OF DADE     )

I, HARVEY RUVIN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. R-349-97, adopted by the said board of County Commissioners at its meeting held on April 8 19 97.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 14th day of April, A.D. 19 97.



HARVEY RUVIN, Clerk  
Board of County Commissioners  
Dade County, Florida

By   
Deputy Clerk

SEAL

Board of County Commissioners  
Dade County, Florida

**EXHIBIT A**

**LEGAL DESCRIPTION  
"FAIRCHILD TROPICAL GARDEN"  
DADE COUNTY OWNERSHIP**

The legal description of subject property is as is recorded in the Office of the Clerk of the Court in Dade County, Florida and as listed, transcribed for convenience, below:

**Book 1883 Page 174**

All that portion of the North Half (N1/2) of the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section Six (6), Township Fifty-Five (55) South, Range Forty-One (41) East, lying East of the main County Highway, containing 17.45 acres, more or less, less a strip 40 feet in width off the North end of the above described lands, which 40 feet is to be dedicated for permanent use as a highway. All said lands lying and being in Dade County, Florida.

together with

All that triangular parcel of land lying in the Southeast (SE) corner of the North Half (N1/2) of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section Six (6), Township Fifty-Five (55) South, Range 41 East, lying East of what is known as the "Cutler Road".

together with

The Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 6, also known as Tracts 9 and 10 of Avocado Land Company's Subdivision of Section 6, Township 55 South, Range 41 East, according to the plat thereof filed in Plat Book 2, at Page 44, of the Public Records of Dade County, Florida.

together with

**Book 2031 Page 521**

That portion of the South 1/2 of the SW1/4 of the SE1/4 of section 6, Township 55 South, Range 41 East, which lies East of the following described line:

From the Southwest corner of the SE1/4 of the above mentioned Section 6, run thence East along the South line thereof a distance 464.26 feet to a point, the said being the southerly terminus of the above mentioned dividing line; from said point deflect thence to the Northeast at an angle of 73°13'45" from the said South line of the SE1/4 of Section 6, and run to a point in the North line of the S1/2 of SW1/4 of SE1/4 of said Section 6, said point being 663.24 feet East of the Northwest corner of said S1/2 of SW1/4 of SE1/4 and also being the Northerly terminus of said dividing line.

less

**Book 2523 Page 320**

From the Northwest corner of the S1/2 of the SW1/4 of the SE1/4 of Section 6, TOWNSHIP 55 South, Range 41 East, running north 89°56'45" East along the north line of said S1/2 of the SW 1/4 of the SE1/4 for a distance of 663.24 feet to the point of beginning of the following described tract; thence continue north 89°56'45" East, for a distance of 156.71 feet to a point; thence south 16°46'15" West for a distance of 270.36 feet to a point; thence north 73°23'45" West for a distance of 150 feet to a point; thence north 16°46'15" East for a distance of 225 feet to the Point of Beginning.

**EXHIBIT B**

**DADE COUNTY PARK AND RECREATION DEPARTMENT  
LEASE, LICENSE, AGREEMENT, OR PERMIT  
PERFORMANCE EVALUATION PROGRAM**



**METROPOLITAN DADE COUNTY  
PARK & RECREATION DEPARTMENT  
LEASE, AGREEMENT OR PERMIT  
PERFORMANCE EVALUATION  
INSPECTION REPORT**

Park Name \_\_\_\_\_ Date \_\_\_\_\_

Location \_\_\_\_\_ Name of Operator \_\_\_\_\_

Inspector \_\_\_\_\_

Signature \_\_\_\_\_ Signature \_\_\_\_\_

Rate each number on the following scale:

N/A Not applicable  
1. Unsatisfactory  
2. Satisfactory

Classification Correction Period:

1. Major A items - 15 days  
B items - 30 days  
2. Minor C items - 90 days

Item No.	Element	Rating	Correct by (Date)	Date Corrected	Comments
<b>A. Bldg. Physical Condition</b>					
1.	Structural, condition including foundations, walls, sills (B)				
2.	Painted/plastered/stucco surfaces (B)				
3.	Cleanliness (B)				
4.	Doors/windows/louvers (B)				
5.	Patio/concrete slab areas (B)				
6.	Roof condition (B)				
7.	Drinking fountain/hose bibs (A)				
8.	Compliance with ADA (Americans With Disabilities Act)				
9.	Misc.				
<b>B. Restroom Appearance</b>					
10.	Restroom properly identified (A)				
11.	Fixtures clean and in good working order (A)				

Item No.	Element	Rating	Correct by (Date)	Date corrected	Comments
12.	Floor, ceiling, windows clean (B)				
13.	Walls and partitions are clean and free of graffiti (B)				
14.	Restrooms adequately supplied (A)				
15.	Adequate illumination and ventilation (A)				
16.	Trash receptacles provided and trash disposal (A)				
17.	Compliance with ADA (Americans With Disabilities Act)				
18.	Misc.				
C. Public and Other Areas - Storeroom, Corridors, etc.					
19.	Floors, walls, ceiling, windows, shelves clean (B)				
20.	Electrical fixtures safe and operable including illumination (B)				
21.	Proper and und cluttered storage of equipment and supplies (B)				
22.	Compliance with ADA (Americans With Disabilities Act)				
23.	Misc.				
D. Concession Stand					
24.	Floors, walls, ceiling, windows, shelves and counters clean (B)				
25.	Equipment and appliances clean and in working order (B)				
26.	Evidence that there is a planned program for keeping service area clean (B)				
27.	Current fire extinguishers as required (A)				
28.	Food not being served is covered (A)				
29.	No safety hazard exists for guests or workers (A)				
30.	Supply storage is vermin and insect proof (B)				
31.	Adequate illumination and ventilation (B)				

-2-

52.	Landscaping - trees and shrubs (B)				
53.	Turf areas (B)				

-3-

Item No.	Element	Rating	Correct by (Date)	Date rected	Comments
54.	Walks and driveways (B)				
55.	Parking lots/courts (B)				
56.	Drainage/Irrigation (B)				
57.	Litter and debris (A)				
58.	Drinking fountains (A)				
59.	Lake/water areas (B)				
60.	Weed control (B)				
61.	Electrical fixtures safe and operable including illumination (B)				
62.	Compliance with ADA (Americans With Disabilities Act)				
63.	Misc.				
	H. Operational				
64.	Facilities and services adequately staffed (A)				
65.	Operating hours conform as specified (B)				
66.	Annual report submitted to County on time (A)				
67.	Copies of Certificates of Insurance submitted to and approved by County (A)				
68.	Necessary fees paid (A)				
69.	Necessary sales verification (A)				
70.	Necessary Occupational/Vending license obtained (A)				
71.	Improvements/Modifications to premises have been approved (A)				
72.	Marketing Programs have been approved (A)				
73.	Bonds are in effect (A)				
74.	Equipment List is (A)				
75.	Necessary utility reimbursement (A)				
76.	Safety Inspection within last 6 months (A)				

Item No.	Element	Rating	by (Date)	Date Corrected	Comments
77. Mtk					

**DADE COUNTY PARK AND RECREATION DEPARTMENT  
LEASE, LICENSE, AGREEMENT OR PERMIT  
PERFORMANCE EVALUATION PROGRAM  
INTRODUCTION**

The Lease, License, Agreement or Permit Performance Evaluation Program established operational standards for facilities and services afforded the public, a method for determining their performance level, and permits operators the opportunity to correct deficiencies without being unfairly penalized.

The rating determined under this program will be used as a basis in the Department's decision to continue, renew, or terminate the lease, license, agreement, or permit. However, notwithstanding the above, the Dade County Park and Recreation Department reserves the right to initiate termination proceedings or to make a determination of unsatisfactory performance for any operator at any time when circumstances so warrant, regardless of the status of the operator's evaluation.

**LEASE, LICENSE, AGREEMENT OR PERMIT  
PERFORMANCE EVALUATION PROGRAM**

**PROGRAM OBJECTIVES**

The primary objective of the Lease, License, Agreement or Permit Performance Evaluation Program is to provide visitors quality services which are safe, healthful and enjoyable, at levels they would expect from the private sector operating outside Dade County Park and Recreation.

Another objective is to serve as a basis in the Department's decision to continue, renew, or terminate the lease, license, agreement or permit. A third major objective is to identify problem areas in relation to long term need. In this regard, the program can be used as a management tool for assuring adequate facilities and services for the visiting public.

**DADE COUNTY PARK AND RECREATION DEPARTMENT  
LEASE, LICENSE, AGREEMENT, OR PERMIT  
PERFORMANCE EVALUATION PROGRAM**

**GENERAL**

The Lease, License, Agreement, or Permit Performance Evaluation Program provides a systematic method for determining operational performance on a periodic and annual basis using established standards for facilities and services authorized under a lease, license, agreement, or permit.

The standards established for each type of facility or service (operation) are composed of distinct elements which are pertinent to satisfactory performance. These elements are classified Major - First Priority (A), Second Priority (B), and Minor - Third Priority (C) based on the degree of their importance, from a visitor's and/or employee's well being and enjoyment viewpoint.

Whenever there is a conflict between the standards contained herein and any applicable existing or newly promulgated regulation(s) the latter will prevail and will be considered a part of the evaluation criteria under this program.

Conformance to the standards is measured periodically through a comprehensive inspection and follow-up on each individual facility or operation, based on the standards contained herein.

The first step in this operational evaluation process is to rate each lease, license, agreement or permit operator's operational performance overall for the years.

**CLASSIFICATION, INSPECTION AND RATING PROCEDURES**

Set forth below are the deficiency classification criteria and detailed inspection and rating procedures to be used in conducting a lease, license, agreement, or permit operator's operational performance evaluation.

- A. Element Classification - Elements on the Performance Evaluation Inspection Report forms have been classified as follows:
  1. Major  
First Priority (A) - Conditions or practices which have the potential for, or exert a significant impairment to the services essential to the well-being and enjoyment of visitors and/or employees.  
  
Second Priority (B) Conditions or practices which have the potential for, or exert a moderate impairment to the services essential to the well-being and enjoyment of visitors and/or employees.
  2. Minor  
Third Priority (C) - Conditions or practices which have a potential for, or exert an impairment to the visitor and/or employee services which may result in inconvenience to such individuals.
- B. Deficiency Correction Criteria - Deficiencies identified during an evaluation shall be corrected in accordance with the following time frames, provided that the correction period for Major deficiencies can be reduced or extended by the

Director of Parks and Recreation when warranted by extenuating circumstances:

- |    |              |           |         |
|----|--------------|-----------|---------|
| 1. | <u>Major</u> | (A items) | 15 days |
|    |              | (B items) | 30 days |
| 2. | <u>Minor</u> | (C items) | 90 days |

It should be understood that A type deficiencies are more serious and may take longer to correct than what is desired.

When the operator fails to correct Major (first and second priority) deficiencies within the correction period established by the Director, the Director may, when circumstances warrant, take one or more of the following actions:

1. Close, by posting all or part of the area when necessary for the protection of the area or the safety and welfare of persons or property.
2. Not approve a specific facility's price increase request(s) until corrections are made.
3. Take other appropriate administrative action in direct relationship to the severity and/or magnitude of the problems.

#### C. Inspection

1. Personnel - All periodic operational inspections shall be conducted by Dade County Park and Recreation Department employees who have been designated by the Director. Follow-up inspections, made to verify corrections or deficiencies, shall be conducted by either the person who made the periodic inspection or other personnel designated by the Director.
2. Periodic Inspection - The Director or authorized representative shall conduct comprehensive operational inspections of each operator's activity, utilizing the standards and forms provided herein. At least one annual operational inspection shall be conducted for each lease, license, agreement, or permit. Additional operational inspections may be conducted throughout the year as deemed necessary. Inspections are to be unannounced; however, limited prior notice may be given when necessary to insure that the operator or his designated representative will be available to accompany the County personnel doing the inspection.

Prior to the start of the inspection, the inspector will enter, in the spaces provided on the Performance Evaluation Inspection Report form, all identifying data such as the park name, address, name of operator, etc., and will pre-inspect General Standard Elements 44 and 60 through 70 that are applicable elements and rate them accordingly.

During the inspection, all deviations from the standards for each applicable element shall be rated as unsatisfactory. All elements in compliance with the standards where applicable shall be rated as satisfactory. A review will then be made of all deviations to determine if



there has been a meaningful deviation from the standard for any applicable elements, and the required correction data(s).

Immediately upon completing the inspection, the Director and operator, or their representatives, are to discuss the entire inspection to arrive at a specific plan for making correction within the established correction period.

They shall then sign and date the form with a copy given to the operator or his designated representative. The operator's or his representative's signature does not necessarily indicate agreement, only that the operator or his representative has seen the inspection report and that it has been discussed with them. If the report has not been signed by the operator or his representative, then the report is to be transmitted promptly to the operator by registered mail.

- D. Follow-up Inspections - The required periodic follow-up inspections should be made as soon as possible after the time specified in the report to determine if the deficiencies identified on the initial inspection have been corrected. If "A" or "B" deficiencies have not been corrected, the Director or his representative shall initiate action as per General Program B, Deficiency Correction Criteria, listed above.

**GENERAL STANDARDS  
FOR  
LEASE, LICENSE, AGREEMENT, OR PERMIT  
PERFORMANCE EVALUATION**

**INTRODUCTION**

The following General Standard elements apply to almost all Lease, Agreement, or Permit operations. There are, however, some instances where individual elements, contained in the leases, licenses, agreements, or permits include additional requirements to the general standards. In such cases, the additional requirements must be added to the General Standards where applicable.

**GENERAL STANDARD ELEMENTS**

**A. BUILDING PHYSICAL CONDITION**

1. Structural Condition - The exterior of the building must be in good physical condition. Foundations, walls and sills should be free from cracks and other signs of deterioration.  
(B)
2. Painted/Plastered/Stucco Surfaces - The exterior surfaces of the building must be painted or otherwise treated to protect against deterioration. Loose brick, peeling paint, and broken plaster or stucco should not be evident.  
(B)
3. Cleanliness - The exterior of the building should be clean, reasonably free of stains and no graffiti.  
(B)
4. Doors/Windows/Louvers - All doors, windows and louvers should be clean and well maintained and operable as designed. All exterior doors and windows should have adequate operable locking devices to the extent that security dictates. Windows are to be clean and free of cracks, breaks, and stains, and have a fresh appearance. Louvers should have vermin and/or insect screens as necessary. Screens should be free of rips and holes.  
(B)
5. Patio/Concrete Slab Areas - All patio and concrete slab areas should be reasonably free of cracks. Areas should not contain hazardous conditions such as wide cracks, elevation differences, broken or loose sections.  
(B)
6. Roof Condition - The roof area shall include all roofing material, fascia boards, eaves, gables, gutters and downspouts. The roof should be free of any leaks and rotten or deteriorating material.  
(B)

7. Drinking Fountain/Hose Bibs - Drinking fountains shall be clean, reasonably free of stains and in proper operating condition. Hose bibs should not leak and are to be in operating condition. (A)

B. RESTROOM APPEARANCE

9. Restroom Properly Identified - Restrooms shall be properly identified with signs appropriately located. (A)
10. Fixtures Clean and in Good Working Order - Toilets, sinks, faucets, tissue dispensers, mirrors, towel racks, etc., shall be clean, unpitted and free of cracks, reasonably free of stains and in proper operating condition. (A)
11. Floor, Ceiling, Windows - Floors and floor coverings must be clean, free of litter, stains and in good repair. Ceilings and windows must be clean, free of mildew, and free of defects such as cracks, breaks, stains, etc. (B)
12. Walls and Partitions - Walls and partitions must be clean, free of mildew, free of graffiti, stains and in good repair. (B)
13. Restrooms Adequately Supplied - Toilet tissue, towel or air drying devices and soap shall be provided. (A)
14. Adequate Illumination and Ventilation - Public toilet areas shall have adequate illumination and be odorless and ventilated. (A)
15. Trash Receptacles Provided and Trash Disposal - Each restroom shall contain one clean wastebasket that is in good repair. The trash in the wastebasket should be periodically disposed. (A)

C. PUBLIC AND OTHER AREAS - STOREROOMS, CORRIDORS

17. Floors, Walls, Ceiling, Windows, Shelves - The interior of the building must be in good physical condition. Floors, walls, ceiling, windows and shelves shall be clean, free of mildew, free of defects such as cracks, breaks, stains, broken plaster, etc. (B)
18. Electrical Fixtures and Illumination - Sufficient electrical fixtures should be provided to properly illuminate the area. Electrical outlets shall be properly grounded and not overloaded. (B)
19. Proper and Uncluttered Storage of Equipment and Supplies - The storage of equipment and supplies shall be in a clean, orderly manner and should present a well organized and uncluttered appearance. (B)

D. CONCESSION STAND

21. Floors, Walls, Ceiling, Windows, Shelves, Counter - Refer to General Standard, Element #17. (B)
22. Equipment and Appliances - Heaters, air conditioners, concession equipment and other appliances (stoves, refrigerators, freezers, ice makers, etc.) must be in good condition, operable, adequate, clean and reasonably quiet. (B)
23. Planned Cleaning Program - There should be evidence that there is a planned program for keeping the service area clean. Such evidence would include cleaning equipment and supplies and the use of such equipment and supplies by workers. (B)
24. Fire Extinguishers - Fire extinguishers must be provided as required by fire code. All extinguishers should be Class ABC and currently inspected. (A)
25. Food Covering - Unpackaged food not being served shall be covered. (A)
26. No Safety Hazard for Guest or Workers - No safety hazards, conditions or practices shall exist which have the potential for, or exert any impairment to the guest or workers. Where necessary, exit signs are properly displayed. (A)
27. Supply Storage is Vermin and Insect Proof - The storage of concession supplies shall be vermin and insect proof. (B)
28. Illumination and Ventilation - The concession area shall have adequate illumination and be odorless and well ventilated. (B)
29. Electrical Fixtures - Refer to General Standard, Element #18. (B)
30. All Cracks in Food Area Sealed - All cracks in the food preparation area shall be sealed so as to prevent food particles from falling or lodging in cracks. (B)
31. Posting of Rates - Rates shall be prominently posted in sales areas (point of purchase) as necessary. Rates must be approved by the Director of Parks and Recreation where applicable. (B)

- 32. Portions Adequate Relative to Price - Portions served shall be relative to the prices charged. (A)
- 33. Food Handling - Workers follow prescribed health standards concerning food handling and preparation. (A)
- 34. Workers Attitude Toward Patrons - Workers should project a hospitable, friendly, helpful, positive attitude toward patrons. (A)
- 35. Garbage Collection and Disposal - An effective system should be evident for the collection and disposal of garbage and trash within the concession area. (A)

E. GARBAGE AND TRASH

- 37. Sufficient Trash Containers Provided - Trash containers shall be in sufficient quantity to handle the needs of the area. (A)
- 38. Convenience of Location - Trash containers shall be conveniently located to handle the needs of the area. (B)
- 39. Conditions of Containers - Trash containers should be in good physical condition, periodically cleaned, waterproof and vermin proof. (B)
- 40. Collection and Disposal - Waste should not accumulate in trash containers to the point of overflowing. Loose garbage and trash shall be picked up and placed in containers. (A)

F. PUBLIC SIGNS/GRAPHICS

- 42. Locations - Public signs should be appropriately located. (C)
- 43. Condition - Signs shall be accurate, attractive and well maintained. Signs of a permanent nature shall be prepared in a professional manner. (C)
- 44. Approval by Director - Signs must have the approval of the Director of Parks and Recreation. (C)

G. GROUNDS

- 46. Condition of Fences and Backstops - Fences and backstops shall be in a good and safe condition. (B)

45

47. Landscaping - Trees and Shrubs - Landscaping should be maintained in good condition. Diseased and dead material should be removed. (B)
48. Turf Areas - Turf areas should be maintained in a condition of sufficient quality to handle the needs of the area. (B)
49. Walks and Driveways - All walks and driveway areas should be reasonably free of cracks. Area should not contain hazardous conditions such as wide cracks, pot holes, elevation differences, broken or loose sections. (B)
50. Parking Lots and Courts - All parking lots and court areas should be reasonably free of cracks. Areas should not contain hazardous conditions such as wide cracks, pot holes, elevation differences, broken or loose sections. (B)
51. Drainage/Irrigation - Drainage should be sufficient to prevent the creation of unsightly and unsafe conditions. Irrigation systems shall be operable and in a safe condition that will not cause harm to workers and patrons. (B)
52. Litter and Debris - The grounds are to be maintained in a clean, neat and sanitary manner at all times. No litter, debris or refuse shall be allowed to accumulate. (A)
53. Drinking Fountains - Drinking fountains shall be clean, reasonably free of stains and in proper operating condition. (A)
54. Lake/Water Areas - Lakes and water areas shall be clean, unduttered and free of trash and debris. Where specified, banks shall be maintained in a natural condition. Signs shall be properly posted to prohibit swimming in lakes. (B)
55. Weed Control - Grounds areas should be free of high weeds that would attract rodents, vermin, varmints and insects. (B)
56. Electrical Fixtures and Illumination - Refer to General Standard, Element #18. (B)

H. OPERATIONAL

58. Staffing - All facilities and services must be properly staffed to prevent undue delays. In determining what constitutes undue delay, consideration shall be given to the kinds and types of service being

rendered and situations or conditions beyond the control of the operator such as unanticipated influxes of visitors, facility or equipment breakdowns, or sudden weather changes. The reasonableness of the delay, based on the above should be the determining factor.

(A)

59. Operating Hours - All facilities and services shall be operated in accordance with the hours authorized or as specified in the operating plan and/or rate schedule. Hours of operation shall be prominently displayed at each facility in such a manner as to be easily visible to the public.

(B)

60. Annual Report - Annual report must be submitted to the County as specified and within time frame.

(A)

61. Certificate of Insurance - A copy of the Certificate of Insurance must be submitted to and approved by General Services Administration; Risk Management Division.

(A)

62. Fees - All fees have been paid within the time specified.

(A)

63. Sales Verification - All sales verification has been submitted and approved through audit within the time specified.

(A)

64. Occupational and Vending License - All necessary occupational and vending licenses have been obtained and are properly displayed.

(A)

65. Improvements and Modifications to Premises - All improvements and modifications to County premises must have the approval of the Director of Parks and Recreation.

(A)

66. Marketing Programs - All marketing programs must have the approval of the Director of Parks and Recreation in order to avoid conflicting and contradictory efforts.

(A)

67. Bonds in Effect - Where required, a Performance Bond(s) with a surety meeting the qualification set forth, has been submitted and accepted by General Services Administration, Risk Management Division.

(A)

68. Equipment List - Where required, all capital equipment installed on County premises must have the approval of the Director of Parks and Recreation. A current list of approved equipment must be maintained.

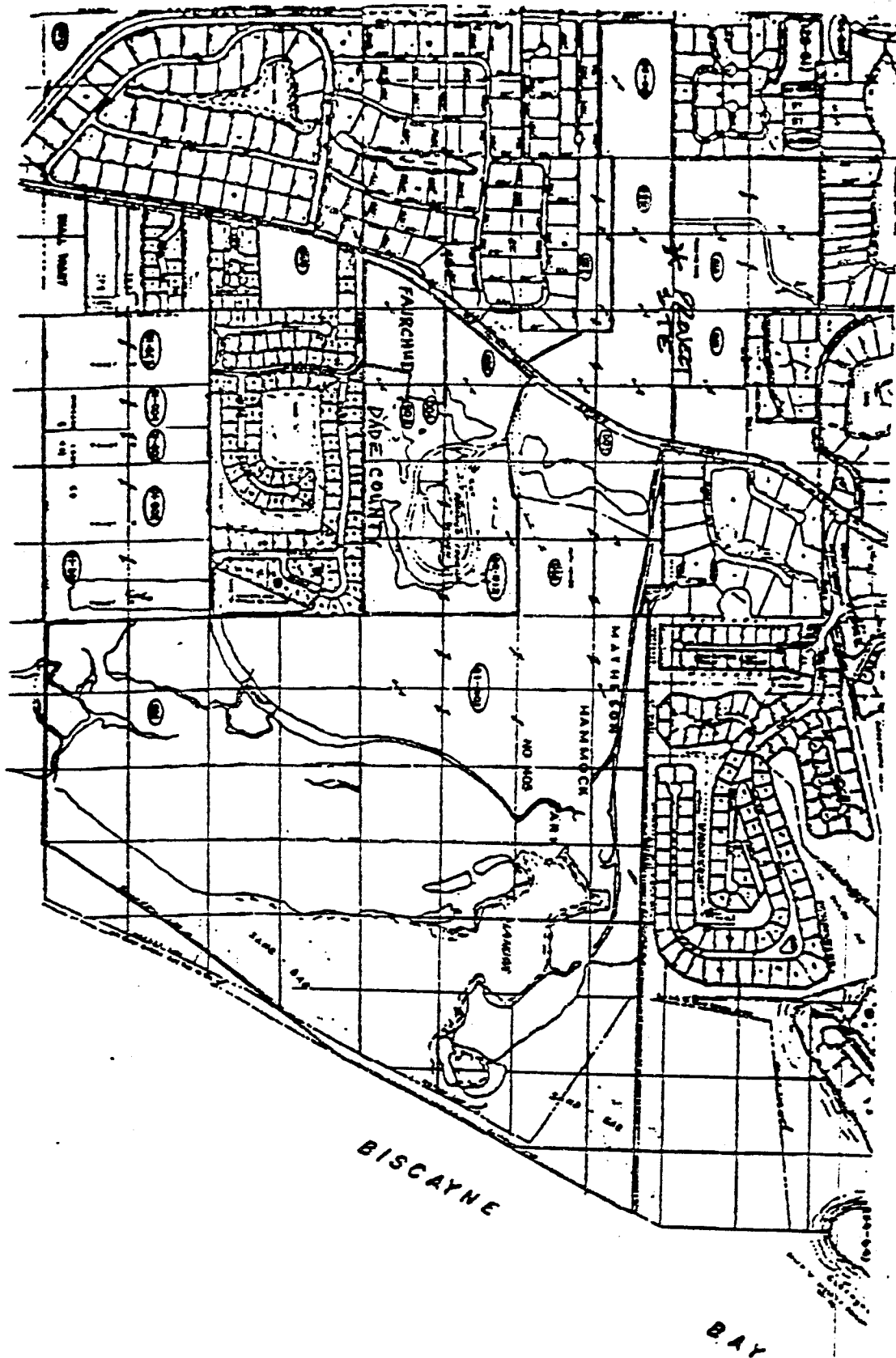
(A)

69. Utility Reimbursement - Where required, utility reimbursements have been paid within the time specified. (A)
70. Safety Inspection - A Safety Inspection Checklist has been conducted within the last six months. All poor items have been corrected. (A)

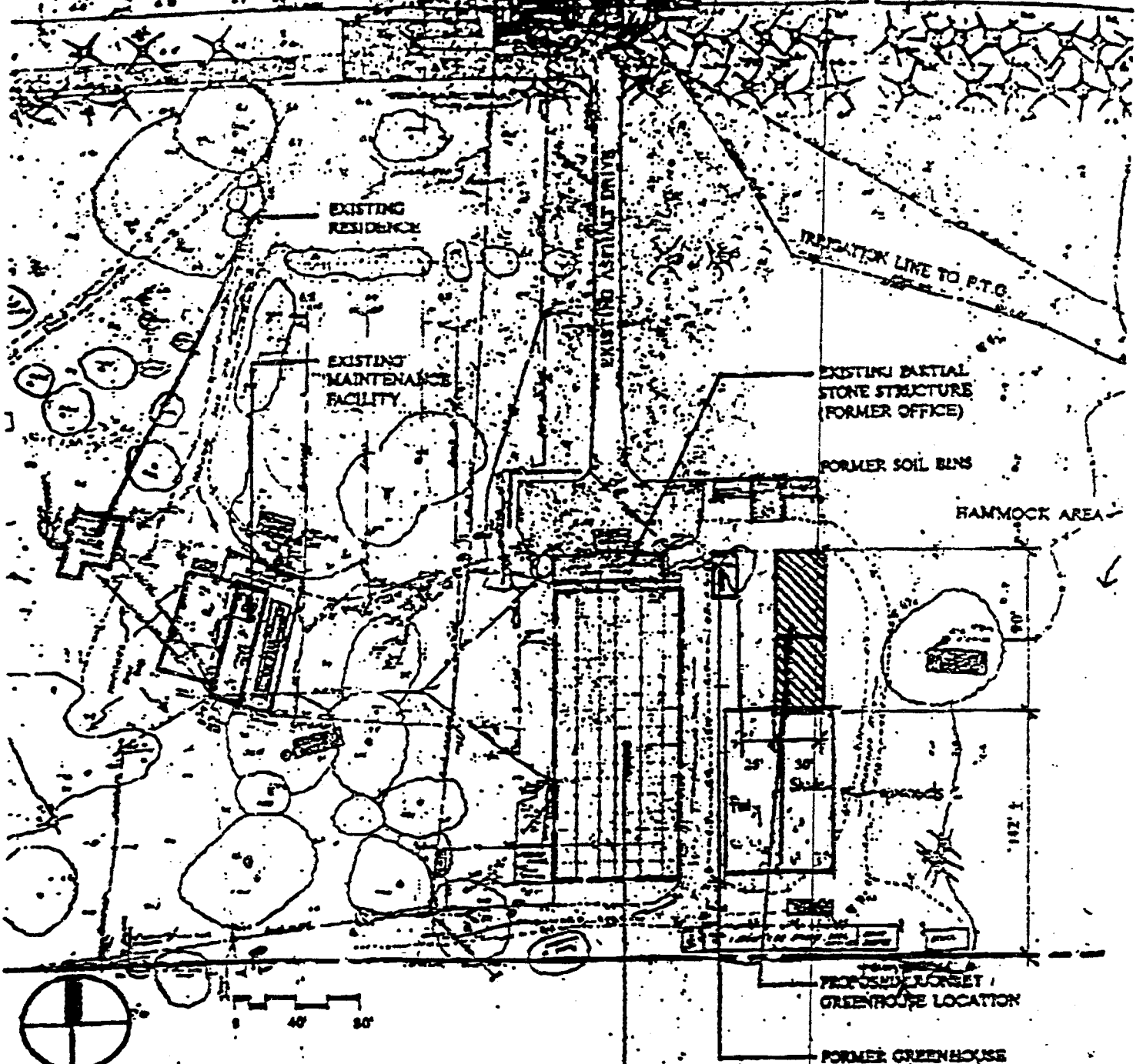


## EXHIBIT C

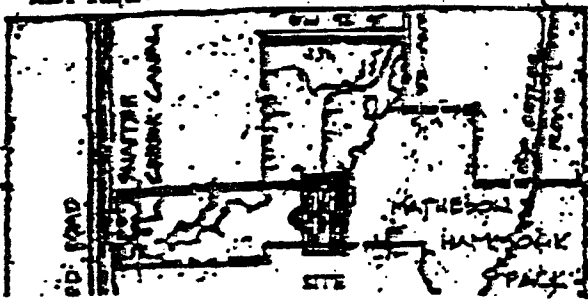
Shadehouse Location Map



EXISTING  
WT & PUMP



KEY PLAN NTS



MATHESON HAMMOCK  
(NURSERY)  
SHEET 54 SCALE 1" = 40'

[illegible]

EXISTING WELL  
IRIGATIONS

MEMO

NO. OF  
PAGES

TRANSMITTED  
FAX 441 442

REC'D  
FAX 441 442

ALASKA ARCHITECTS

NANCY: PLAN TO DATE: NEEDS FOR ELEVATIONS,  
WATER, ELECTRICAL CODES, NOTES,  
WHATEVER GREENHOUSE DRAWINGS DON'T SHOW — *for*